

QUIN DENVIR, Bar #49374
Federal Defender
Dennis S. Waks, Bar #142581
Supervising Assistant Federal Defender
801 I Street, 3rd Floor
Sacramento, California 95814
Telephone (916) 498-5700

Attorney for Defendant
MARCOS LESMON BENAVIDEZ

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Case No. CR. S-04-315-WBS
)	
Plaintiff,	)	STIPULATION AND REQUEST FOR
	)	CONTINUANCE AND FINDING OF
v.	)	EXCLUDABLE TIME UNDER THE
	)	SPEEDY TRIAL ACT AND LOCAL
MARCOS LESMON BENAVIDEZ,	)	CODES T4 and T2; ORDER
	)	EXCLUDING TIME
Defendant.)	
	)	Date: August 24, 2005
	)	Time: 9:00 a.m.
	)	Judge: Hon. William B. Shubb

It is hereby stipulated and agreed to between the United States of America through DANIEL LINHARDT, Supervising Assistant U.S. Attorney, and defendant, MARCOS LESMON BENAVIDEZ, by and through his counsel, DENNIS S. WAKS, Supervising Assistant Federal Defender, that the status conference hearing set for July 6, 2005 be vacated and reset for August 24, 2005 at 9:00 a.m.

This continuance is requested because defendant's former counsel, Rachelle Barbour, Assistant Federal Defender, is out on maternity leave. New counsel will need time to review and analyze discovery received from the government, and discuss it with Mr. Benavidez. Defense counsel has received over 3000 pages of claim

1 documents from the government, which need to be discussed with Mr.
2 Benavidez. Defense counsel has also received four audiotapes in
3 Spanish. The defendant has requested additional investigative
4 documents, including reports, copies of any witness interviews, and
5 additional information from the investigating agent.

6 Both parties believe that based on the documents produced to
7 date, and the outstanding documents sought by the defense, this case is
8 complex under the standard set forth in Local Code T2 and Title 18
9 U.S.C. § 3161(h)(8)(B)(ii). The Court has previously found that it is
10 complex. Counsel ask for time to be excluded on that basis and for
11 preparation of new defense counsel (Local Code T4).

12 All parties desire that a status conference be set on August 24,
13 2005. The parties further stipulate and agree that time from the date
14 of the order below until August 24, 2005, be excluded under the Speedy
15 Trial Act pursuant to Local Codes T2 and T4, Title 18, U.S.C.
16 §§ 3161(h)(8)(B)(ii) and (iv), because the case is complex and to give
17 new defense counsel reasonable time to prepare, conduct investigation,
18

19 / / /

20 / / /

21 / / /

22 / / /

23 / / /

24 / / /

25 / / /

26 / / /

27 / / /

1 and discuss the case with Mr. Benavidez and the government.

2 Dated: June 30, 2005

Respectfully submitted,

3 QUIN DENVIR
4 Federal Public Defender

5 By /s/ Dennis S. Waks
6 DENNIS S. WAKS
7 Sup. Assistant Federal Defender
8 Attorney for Defendant
9 MARCOS LESMON BENAVIDEZ

10 Dated: June 30, 2005

MCGREGOR SCOTT
United States Attorney

11 /s/ Dennis S. Waks for
12 DANIEL LINHARDT
13 Sup. Assistant U.S. Attorney
14 Attorney for Plaintiff

15 / / /

16 / / /

17 / / /

18 / / /

19 / / /

20 / / /

21 / / /

22 / / /

23 / / /

24 / / /

25 / / /

26 / / /

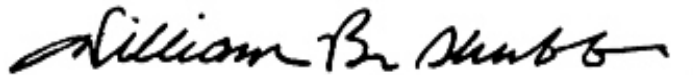
27 / / /

28 / / /

ORDER

IT IS SO ORDERED. The Court makes a finding of excludable time as set forth in the attached stipulation. The time between the date of this order through August 24, 2005, will be excluded under the Speedy Trial Act pursuant to Local Codes T2 and T4, Title 18, U.S.C. §§ 3161(h)(8)(B)(ii) and (iv). The Court specifically finds that the case is complex as provided in 18 U.S.C. § 3161(h)(8)(B)(ii). The court also specifically finds that a continuance is necessary to give counsel for the defendant reasonable time to prepare in this matter. The court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and the defendant in a speedy trial.

DATED: June 30, 2005



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE